

**Illinois Health Information Exchange
Legal Task Force
Disclosure of Clinical Lab Test Results; Prescription Drug
Information; Payment Claims Work Group
April 7, 2011
Meeting Minutes**

In-person Attendees:

Mark Chudzinski, Office of Health Information Technology

Attended by Phone:

Cliff Berman (Co-chair), SXC Health Solutions Corp.

Michele Davidson, Walgreens Co.

Vaughn Ganiyu, Office of Health Information Technology

William Galanter, University of Illinois at Chicago

Starr Lander

Ed Rickert (Co-chair), Krieg DeVault LLP

Marilyn Vetter, Takeda Pharmaceuticals NA, Inc.

A. Introduction

Mark Chudzinski, the General Counsel of the State of Illinois Office of Health Information Technology (OHIT), welcomed people to the call at 10:05 a.m., hosted by OHIT at the State of Illinois J.R. Thompson Center in Downtown Chicago with a telephone conference call-in number. It was noted that notice of the meeting and the agenda were posted on the OHIT website and at the Chicago meeting location no later than 48 hours prior to the meeting. Roll was taken, and the ability of those attending by telephone to hear and participate was confirmed. Minutes for the 3/4/11 work group meeting were distributed prior to the meeting. A motion was made to approve the minutes, and it was seconded by another member of the group. No one objected, and the minutes were subsequently approved.

B. Review of the Legal Analysis Worksheet

Ed stated that the agenda for the meeting was short in order to give the group time to discuss each member's review of their specifically assigned state law. As of the date of the meeting, Ed stated that Vaughn was the only member to submit a draft of the legal analysis worksheet to the co-chairs of the group. Therefore, Cliff suggested that the group members take turns and briefly comment on their progress with their worksheets and discuss any relevant issues with the group.

Marilyn addressed the group first by discussing her work on the Illinois Food, Drug, and Cosmetic Act (410 ILCS 620). Marilyn informed the group that the definition section needed to

be amended in regards to electronic prescriptions. Ed also commented that while the Illinois Pharmacy Practice Act covers electronic prescriptions and defers to HIPAA on silent issues, he stated there is still troubling language within the act.

Cliff went next and discussed the relevant issues he discovered while reviewing the Illinois Insurance Code (215 ILCS 5). Cliff mentioned that in reviewing the Illinois Insurance Code he noticed that the code discussed the possibility of sharing of common files, however, it didn't specifically address how such information could be shared with a health information exchange. Cliff posed a question to the group as to whether there needs to be specific language added to the act mandating the release of information to the HIE and what third party institutions may have access to such files. Mark stated that incorporating specific language into the act, which allows pharmacies to participate in the HIE could be a good idea. Mark proposed the enactment of an omnibus act that would cover all participants who would have authorization to share data with the HIE.

Next, the work group discussed the implications of enacting an omnibus act outlining the type of institutions that would have access to information maintained by the HIE. The group also analyzed the benefits of defining the participants of the HIE in each of their respective practice acts. A member of the group commented that in other states with similar practice acts the provisions outlining electronic transmission were limited. Ed concluded the discussion by recommending that the creation of an omnibus act would be the best method in naming all of the particular participants, instead of relying on individual practice acts.

After this brief discussion, Cliff returned to updating the group on more of his findings in regards to the Illinois Insurance Code. Cliff also informed the group that the insurance code covers medical information in a similar way to HIPAA. Cliff continued to highlight provisions within the disclosure, limitations, and condition section of the code and discuss some enumerated exceptions that the group may need to address in the future when it makes its recommendations to the HIE Authority.

Next, Vaughn discussed his review of the Illinois Public Aid Code (305 ILCS 5). Vaughn mentioned that the Illinois Public Aid Code does not address the disclosure of health information to third parties, such as the HIE, for purposes of treatment or payment. Additionally, Vaughn stated that the code also does not address limited data sets, de-identification, or have a comprehensive definition section. However, the act does mention pharmacies requests for reimbursement claims from the state for prescription drugs provided to recipients under a medical assistance program. Vaughn proposed that the group look into possibly recommending to the Authority to add language to the code that would allow for these reimbursement claims to be sent through the HIE. Specifically, the language should address that the HIE will maintain

provider records related to the payment claims of recipients receiving medical assistance from the state.

C. Conclusion of the Meeting

After Vaughn's review, Ed informed the group members to continue to work on their legal analysis worksheets and once all the worksheets are completed, he would share them with the group. In regards to drafting a white paper, Ed said that he would select one or two members to be in charge of drafting the white paper.

Ed informed the group that Saroni would send out another survey to schedule the next group meeting. There was no public comment.

The meeting adjourned at 10:44 a.m.